

Notice of Allowability

Application No.

09/524,666

Applicant(s)

ACETI ET AL.

Examiner

PHYLESHA L. DABNEY

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/22/08.
2. ☒ The allowed claim(s) is/are 1, 4-8, and 21-22.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

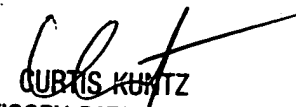
4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 2/22/08
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER

DETAILED ACTION

This action is in response to the Interview conducted on 22 February 2008 in which claims 1, 4-8, and 21-22 were elected.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Meagher on 22 February 2008.

The application has been amended as follows:

In the Claims

1. (Currently amended) A modular in-the-ear-type hearing aid comprising:
 - a base unit adapted to contain any of a microphone, a receiver, a battery, electronics and controls, and wherein the base unit can be replaced after use; and
 - an earmold removably attached to the base unit, the earmold comprising a compliant material and having a shorter useful life than the useful life of the base unit, the earmold further comprising a retention mechanism for connection to the base unit such that the earmold can be connected to the base unit or removed from the base unit and replaced after use on a more frequent basis than the replacement of the base unit, the earmold adapted to contain both a hearing aid component non-removably integrated

Art Unit: 2614

within the earmold, the hearing aid component comprising at least one of a battery, a receiver, and hearing aid electronics.

4. (Previously Presented) A modular hearing aid comprising:
 - a base unit adapted to contain any of a microphone, electronics and controls; and
 - an earmold removably attached to the base unit, the earmold comprising a compliant material, a retention mechanism for connection to the base unit such that the earmold can be connected to the base unit or removed from the base unit and replaced after use, and the earmold comprising both a battery and a receiver non-removably integrated with the earmold.
5. (Previously Presented) The modular hearing aid of Claim 4 wherein the earmold further comprises a shell non-removably integrated with the earmold, the shell housing the battery and the receiver.
8. (Original) The modular hearing aid of Claim 1 wherein the earmold forms an earmold tip for attachment to a distal end of the base unit.
9. (Original) The modular hearing aid of Claim 1 wherein the earmold unit forms an earmold sleeve for attachment to at least a portion of the base unit.

Art Unit: 2614

10. (Original) The modular hearing aid of Claim 1 wherein the earmold unit forms an earmold tip and an earmold sleeve for attachment to the base unit.

21. (Currently Amended) A modular hearing aid comprising:

a base unit adapted to contain a microphone and electronics; and

an earmold comprising a compliant material non-removably integrated with both a battery and a receiver that are non-removable, the earmold having a flexible, mushroom shaped earmold tip adapted to create a seal with the bony portion of the ear canal to acoustically isolate the hearing aid base unit from acoustical vibrations created by the receiver, the earmold tip further comprising a retention mechanism for connection to the base unit such that the earmold can be connected to the base unit or removed from the base unit and replaced after use.

22. (Currently Amended) A method for replacing an earmold of a modular in-the-car-type hearing aid comprising the steps:

providing a modular hearing aid having a base unit and a compliant earmold having a shorter useful life than the useful life of the base unit, the earmold adapted to contain both a hearing aid component non-removably integrated within the earmold;

releasing a securing mechanism between the earmold and the base unit, the securing mechanism capable of being released by a user without the use of a separate tool or instrument;

removing the earmold from the base unit;

Art Unit: 2614

discarding the earmold;
placing a second earmold onto the base unit; and
attaching the securing mechanism.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The primary reason for allowance is the teaching of modular hearing aid comprising a base unit and an earmold unit comprising a compliant material, a retention mechanism such that the earmold houses both a nonremovable battery and a nonremovable receiver as substantially described and connected with the other functional language recited in the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHYLESHA L. DABNEY whose telephone number is (571)272-7494. The examiner can normally be reached on Mondays, Wednesdays, Fridays 8:30-4 PM.

Art Unit: 2614

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any response to this action should be mailed to:
Commissioner of Patents and Trademarks
P O Box 1450
Alexandria, VA 22313-1450


Or faxed to:
(703) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "Proposed" or "Draft" when submitting an informal amendment.

Hand-delivered responses should be brought to:
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

February 26, 2008

PLD


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